

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION

Civil No. 1:18-cv-00078-DLH-CSM

WBI Energy Transmission, Inc.,  
Plaintiff,  
-vs-  
An Easement and Right-of-Way  
Across  
189.9 rods, more or less, located in  
Township 149 North, Range 98 W  
Section 11: W1/2SE1/4  
Section 14: NW1/4NE1/4  
227.8 rods, more or less, located in  
Township 149 North, Range 98 W  
Section 11: N1/2SW1/4, W1/2SE1/4  
242.0 rods, more or less, located in  
Township 149 North, Range 98 W  
Section 2: SW1/4SE1/4  
Section 11: NE1/4  
335.3 rods, more or less, located in  
Township 150 North, Range 98 W  
Section 35: W1/2E1/2  
223.8 rods, more or less, located in  
Township 149 North, Range 98 W  
Section 28: S1/2N1/2  
83.6 rods, more or less, located in  
Township 149 North, Range 98 W  
Section 14: NW1/4  
McKenzie County, North Dakota,  
David L. Hoffmann; Denae M.  
Hoffmann; Leonard W. Hoffmann and

## **Exhibit A to Declaration of Steven Price**

Margaret A. Hoffmann, Trustees of the )  
Hoffmann Living Trust dated March 8, )  
2002; Rocky & Jonilla Farms, LLP; )  
Randall D. Stevenson; and all other )  
unknown owners of the above lands, )  
Defendants. )

TRANSCRIPT OF  
DEPOSITION OF DENAE HOFFMANN

Taken At  
Braaten Law Firm  
109 North Fourth Street  
Bismarck, North Dakota  
November 12, 2020

(APPEARANCES AS NOTED HEREIN)

1

## A P P E A R A N C E S

2

3 MR. PAUL J. FORSTER  
4 MS. CASEY A. FUREY  
5 Crowley Fleck PLLP  
6 Attorneys at Law  
7 100 West Broadway, Suite 250  
8 P.O. Box 2798  
9 Bismarck, North Dakota 58502-2798

10

FOR THE PLAINTIFF.

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12

13 MR. DERRICK BRAATEN  
14 Braaten Law Firm  
15 Attorneys at Law  
16 109 North Fourth Street, Suite 100  
17 Bismarck, North Dakota 58501

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FOR THE DEFENDANTS.

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20

ALSO PRESENT:

21

22 MS. JANA HOFFMANN  
23 MR. LEONARD W. HOFFMANN  
24 MS. MARGARET A. HOFFMANN

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1 (Deposition of **DENA HOFFMANN**, a witness  
 2 of lawful age, taken on behalf of the Plaintiff in  
 3 the above-entitled cause, pending in the District  
 4 Court of the United States for the District of  
 5 North Dakota, Western Division, pursuant to Notice  
 6 of Taking Deposition, before Denise M. Andahl, a  
 7 Registered Professional Reporter and a Notary  
 8 Public in and for the State of North Dakota, at the  
 9 Braaten Law Firm, 109 North Fourth Street, Suite  
 10 100, in the City of Bismarck, County of Burleigh,  
 11 State of North Dakota, on the 12th day of November,  
 12 2020, commencing at 8:58 a.m., counsel appearing on  
 13 behalf of the respective parties as hereinbefore  
 14 indicated:)

15 -----

16 (The following proceedings were had and  
 17 made of record:)

18 **DENA HOFFMANN**,  
 19 being first duly sworn, was examined and testified  
 20 as follows:

21 **EXAMINATION**

22 **BY MR. FORSTER:**

23 Q. Good morning. My name is Paul Forster and  
 24 I represent WBI Energy in this case. I don't think  
 25 we previously met. But can you please state your

7

1 name for the record.

2 A. My name is Denae Hoffmann.

3 Q. And could you please spell it for the  
 4 court reporter as well?

5 A. D-e-n-a-e H-o-f-f-m-a-n-n.

6 Q. And, Ms. Hoffmann, have you ever had your  
 7 deposition taken before?

8 A. No.

9 Q. Okay. Nothing too complicated, but I just  
 10 want to walk through a few ground rules. Your  
 11 attorney might have already covered some of this  
 12 with you, but I like to just cover these points at  
 13 the beginning of each deposition and hopefully it  
 14 makes things go a little bit more smoother as we  
 15 have our discussion.

16 The first point obviously is that we have  
 17 a court reporter here who is taking down everything  
 18 that you say. So please try and make sure to  
 19 provide audible responses, yes or no. If you  
 20 respond mm-hmm or huh-uh, that's difficult to get  
 21 down on a transcript. Or if you nod your head or  
 22 shake your head, that's also difficult to take down  
 23 for the transcript. Does that make sense?

24 A. It does.

25 Q. And if I have asked a poor question, which

1 has been known to happen from time to time, please  
 2 just ask me to rephrase and I'll be happy to do  
 3 that. Okay?

4 A. Yes.

5 Q. And then if you don't ask me to rephrase,  
 6 I'll just assume that you understood the question.  
 7 Fair enough?

8 A. Yes.

9 Q. Also if you want to take a break at any  
 10 point during the day, just speak up. We can take a  
 11 break at any point you need to do so. The only  
 12 thing I'll ask is that if there's a question  
 13 pending at the time, that you answer that question  
 14 before we take a break. Does that make sense?

15 A. Yes.

16 Q. To start out, I'd like to just know a  
 17 little bit about your background. Could you tell  
 18 me just to start with where you're from, where you  
 19 were born, where you've lived over the course of  
 20 your life?

21 A. I was born in Bismarck, North Dakota. My  
 22 parents and I moved to Watford City, North Dakota,  
 23 when I was four years old, and I lived there until  
 24 February of this year.

25 Q. And what's your educational background,

9

1 Ms. Hoffmann?

2 A. I graduated from high school.

3 Q. And what did you do after high school?

4 A. My family owned a grocery business in  
 5 Watford City, and I helped work with them there  
 6 until I was married to my husband, and then we  
 7 farmed and I also worked in town for most of my  
 8 life.

9 Q. In Watford City?

10 A. Yes.

11 Q. And what did you do for work in Watford  
 12 City?

13 A. I helped in the family-owned grocery  
 14 business. I worked at a bank. My most previous  
 15 job was at the McKenzie County Auditor's Office in  
 16 Watford City. I worked there for 21 years and I  
 17 retired in 2014.

18 Q. What did you do at the auditor's office?

19 A. I mainly did accounts payable. I worked  
 20 with delinquent tax properties, helped with  
 21 elections. We pretty much did a lot of things.

22 Q. Fair enough.

23 A. Catchall.

24 Q. Do you remember approximately what time  
 25 frame you worked for that bank?

1       **A. In the 1980s.**

2       **Q.** What did you do while you were with the  
3 bank?

4       **A. Mostly secretarial. When I did quit  
5 there, I was an assistant loan officer.**

6       **Q.** Do you have any experience conducting real  
7 property appraisals? Is that something that you  
8 ever did over the course of working?

9       **A. No.**

10       **Q.** I want to talk now -- well, to start off  
11 with, what is your just general understanding of  
12 the case that you're involved in with WBI Energy?

13       What's the case about from your perspective?

14       **A. It's a case about eminent domain  
15 proceedings that were enforced on my property.**

16       **Q.** And specifically an eminent domain case  
17 for WBI Energy to construct a natural gas pipeline  
18 across some of your property; is that right?

19       **A. Yes.**

20       **Q.** I just want to -- before we dive too far  
21 into specifics, I just want to make sure that we're  
22 on the same page about the property that we're  
23 talking about. And so I'm going to introduce a  
24 couple of exhibits here. So first we will mark  
25 this as Exhibit 1.

1       **Q.** And if I refer -- as we go forward today,

2 if I refer to this property that's shown on Exhibit  
3 2, if I refer to that as the subject property or  
4 the subject lands, will you understand what I'm  
5 referring to?

6       **A. Yes.**

7       **MR. BRAATEN:** Can I just clarify? When  
8 you say that, are you referring to the lands that  
9 are within the yellow outline on the exhibit?

10       **MR. FORSTER:** Exactly.

11       **Q. (MR. FORSTER CONTINUING)** And just so we  
12 have the legal description in the record, my  
13 understanding is that the subject lands would be  
14 the Southeast Quarter and the North Half of the  
15 Southwest Quarter of Section 11, and then the North  
16 Half of the Northeast Quarter of Section 14, all in  
17 Township 149 North, Range 98 West?

18       **A. Would you repeat that, please?**

19       **Q.** Certainly. The subject lands shown in the  
20 yellow outline on Exhibit 2 would be the Southeast  
21 Quarter of Section 11, the North Half of the  
22 Southwest Quarter of Section 11 and the North Half  
23 of the Northeast Quarter of Section 14, Township  
24 149 North, Range 98 West. Does that appear  
25 correct?

11

13

1       (Deposition Exhibit No. 1 was marked for  
2 identification.)

3       **Q. (MR. FORSTER CONTINUING)** Ms. Hoffmann, do  
4 you have Exhibit 1 in front of you?

5       **A. Yes.**

6       **Q.** Now, my understanding is that Exhibit 1  
7 shows the pipeline easements that WBI Energy is  
8 acquiring across your property. Is that consistent  
9 with your understanding?

10       **A. Yes.**

11       **Q.** And I'm going to now show you another  
12 exhibit marked as Exhibit 2.

13       (Deposition Exhibit No. 2 was marked for  
14 identification.)

15       **Q. (MR. FORSTER CONTINUING)** And my  
16 understanding is that Exhibit 2 is an aerial  
17 overview of some property that you own in McKenzie  
18 County. Does the yellow outline on this Exhibit 2  
19 depict property that you own?

20       **A. Yes.**

21       **Q.** And is the property that's depicted on  
22 Exhibit 2, is that the property that is crossed by  
23 WBI Energy's pipeline that they constructed in this  
24 action?

25       **A. Yes.**

1       **A. Yes. Yes.**

2       **Q.** And, Ms. Hoffmann, are you the sole owner  
3 of the subject lands at this point?

4       **A. I am.**

5       **Q.** And my understanding is that you  
6 previously owned those as joint tenants with your  
7 husband, David Hoffmann; is that correct?

8       **A. Yes.**

9       **Q.** And my condolences for his passing. And  
10 I'm just asking to make a clear record that at this  
11 point, you would be the person with the sole right  
12 to any compensation for the WBI Energy pipeline  
13 that crosses the subjects lands; is that right?

14       **A. Yes.**

15       **Q.** Also before we move on, I want to also  
16 show you one other exhibit that shows a little bit  
17 more zoomed-out view of the subject lands. We'll  
18 mark this as Exhibit 3.

19       (Deposition Exhibit No. 3 was marked for  
20 identification.)

21       **Q. (MR. FORSTER CONTINUING)** And, Ms.  
22 Hoffmann, does this exhibit appear to you to show  
23 in the green shading the location of the subject  
24 lands within the larger township?

25       **A. Yes.**

1       Q. Now, I want to talk a little bit about how  
 2 the subject lands have been used over the years.  
 3 And to start with, let's talk about residential  
 4 use. Have you resided on the subject lands at any  
 5 point?

6       **A. The area highlighted in green?**

7       Q. Right, the area highlighted in green on  
 8 Exhibit 3.

9       **A. No. My residence is over on Section 12.**

10      Q. The residence is on Section 12?

11      **A. Correct.**

12      Q. Over to the east of the subject lands?

13      **A. Yes.**

14      Q. And that residence, my understanding is  
 15 that you lived there up until earlier this year,  
 16 but you've since moved to Bismarck; is that right?

17      **A. Yes.**

18      Q. And what part of Section 12 is the  
 19 residence located on, just generally? If you could  
 20 identify which quarter.

21      **A. It is in the Southeast Quarter of Section**

22      **12. It's the numeral 2 that is circled.**

23      Q. The numeral 2 that's circled on Exhibit 3?

24      **A. On Exhibit 3.**

25      Q. Thank you. I want to talk a little bit

15  
 1 now about just any agricultural use of the subject  
 2 lands. As far as you know, are the subject lands  
 3 zoned agricultural by McKenzie County?

4       **A. Yes.**

5       Q. And my understanding is that you and  
 6 Mr. Hoffmann did some farming on the subject lands  
 7 up until 2017; is that right?

8       **A. Yes.**

9       Q. And since then, have you rented the  
 10 subject lands to others for agricultural uses?

11      **A. Yes.**

12      Q. So my understanding from the written  
 13 discovery is that J.P. Klamm began renting cropland  
 14 on the subject lands by oral agreement in 2018.

15      Does that sound right?

16      **A. Yes.**

17      Q. And he pays \$23 an acre for the cropland,  
 18 renting about 375 acres; does that sound right?

19      **A. Yes.**

20      Q. And that's \$23 per acre per year?

21      **A. Yes.**

22      Q. And if we look at Exhibit 2, it appears  
 23 that there's a field to the north of the road that  
 24 runs through the subject lands. Do you see that?

25      **A. Yes.**

1       **Q. I assume that's the land that's rented by**

2 Mr. Klamm within the subject lands?

3       **A. Part of it, yes.**

4       Q. And then some of what he rents is also in  
 5 Section 12?

6       **A. I believe so.**

7       Q. Other than the portion of the subject  
 8 lands that's rented by Mr. Klamm for farming, is  
 9 there anyone else who rents any part of the subject  
 10 lands shown on Exhibit 2 for agricultural purposes?

11      **A. No.**

12      Q. No grazing or haying other parts of it;  
 13 correct?

14      **A. Not at this time.**

15      Q. It looks like there are a couple of oil  
 16 well locations just to the south of that road that  
 17 bisects the subject land. Do you see those on  
 18 Exhibit 2?

19      **A. Yes.**

20      Q. And do you know which company operates  
 21 those pads, those wells?

22      **A. Yes.**

23      Q. Who is it?

24      **A. Ovintiv, I believe they're called now.**

25      **Originally Newfield.**

17

1       Q. Originally Newfield and now you said  
 2 Ovintiv?

3       **A. I believe so. It was Encana in between.**  
 4 **They've changed.**

5       Q. Sure. Do they pay any kind of yearly or  
 6 monthly rental for those sites?

7       **A. Yes.**

8       Q. And do you know what that amount is?

9       **A. No.**

10      Q. Do you know whether it's a yearly or a  
 11 monthly rental?

12      **A. Yearly.**

13      Q. Would you be able to figure out what the  
 14 amount was if you needed to look back at your  
 15 records?

16      **A. Yes.**

17      Q. Are there -- aside from the rentals of the  
 18 subject land that we've already discussed, are  
 19 there any other current or future rentals on the  
 20 subject lands that we haven't covered already?

21      **A. Can you rephrase that?**

22      Q. Sure. So we talked about -- I believe we  
 23 talked about J.P. Klamm renting a portion of the  
 24 subject lands to grow crops and then we talked  
 25 about Newfield or its successor in interest renting

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20

1 these two well pads. Are there any other rentals  
 2 on the surface of the subject lands that are  
 3 ongoing that we haven't already covered today?

4 **A. I don't know.**

5 **Q. None that you're aware of?**

6 **A. Correct.**

7 **Q. In terms of the J.P. Klamm crop rental for**  
 8 \$23 an acre, as far as you know, is that consistent  
 9 with the general market for crop rentals in this  
 10 area in McKenzie County?

11 **A. I don't know.**

12 **Q. Are you familiar with the county rents and**  
 13 values surveys that are done in North Dakota and  
 14 put out? Have you ever looked at that document?

15 **A. No.**

16 **Q. I'm now going to mark an Exhibit 4.**

17 (Deposition Exhibit No. 4 was marked for  
 18 identification.)

19 **Q. (MR. FORSTER CONTINUING) And this is some**  
 20 real estate tax information. Take a minute to flip  
 21 through it. My understanding, Ms. Hoffmann, is  
 22 that these would be the 2018 McKenzie County real  
 23 estate tax statements that cover the subject lands.  
 24 Let me know if that appears to be the case to you.

25 **A. Yes.**

1 **A. I do.**

2 **Q. The parcel number on Exhibit 5 appears to**  
 3 line up with the parcel number on the tax statement  
 4 for the first page of Exhibit 4, doesn't it?

5 **A. For the first page, yes.**

6 **Q. And if you look at the top left under the**  
 7 tax info tab on Exhibit 5, it appears to show that  
 8 the -- there's an entry that says assessment or  
 9 ASMT 101 agricultural. Do you see that?

10 **A. Yes.**

11 **Q. Does that refresh your recollection as to**  
 12 whether the subject lands are assessed at an  
 13 agricultural value for real estate tax purposes?

14 MR. BRAATEN: Object to form and  
 15 foundation. You can answer.

16 **A. It shows that that parcel is regarded as**  
 17 **agricultural land.**

18 **Q. (MR. FORSTER CONTINUING) Do you have**  
 19 reason to believe that the other parcels in Exhibit  
 20 4 are assessed at something other than  
 21 agricultural?

22 **A. No.**

23 **Q. Would you agree that the majority of the**  
 24 subject lands as of today continue to be used for  
 25 agricultural purposes?

19 **Q. And if you look at these statements, all**  
 2 of them -- if you go about a third of the way down  
 3 the page, they show a true and full value for the  
 4 land. Do you see that?

5 **A. Yes.**

6 **Q. It would appear to me that the lands are**  
 7 assessed -- for real estate tax purposes, are  
 8 assessed at an agricultural value. Would you agree  
 9 with that?

10 MR. BRAATEN: Object to form and  
 11 foundation.

12 **Q. (MR. FORSTER CONTINUING) Oh, the**  
 13 objection is noted, but you can answer.

14 **A. The statement doesn't say whether it's**  
 15 **real estate -- if it's commercial or agriculture.**  
 16 **Normally they would.**

17 **Q. We'll mark an additional exhibit. And**  
 18 that actually struck me as well. I'll represent to  
 19 you that I downloaded this document from the  
 20 McKenzie County real estate tax portal, which we'll  
 21 mark as Exhibit 5.

22 (Deposition Exhibit No. 5 was marked for  
 23 identification.)

24 **Q. (MR. FORSTER CONTINUING) And do you have**  
 25 **Exhibit 5 in front of you?**

21 **MR. BRAATEN: Object to form.**

1 **A. I receive other income than agricultural**  
 2 **from that parcel. Is that what you're --**

4 **Q. (MR. FORSTER CONTINUING) Probably a bad**  
 5 question. In terms of the -- in terms of the  
 6 acreage that's included within the subject lands,  
 7 the yellow outline on Exhibit 2, would you agree  
 8 that the majority of that acreage continues to be  
 9 used for agricultural purposes today?

10 **A. Agricultural and pipeline crossings.**

11 **Q. And we'll talk about the pipeline**  
 12 **crossings -- we'll get into those in a minute.**

13 **Are there any portions of the subject**  
 14 **lands that are no longer used for agricultural**  
 15 **purposes as a result of pipeline crossings?**

16 **MR. BRAATEN: Object to form.**

17 **A. Could you repeat that, please?**

18 **Q. (MR. FORSTER CONTINUING) Are there any**  
 19 **portions of the subject lands that are no longer --**  
 20 **used to be used for agricultural purposes and are**  
 21 **no longer used for agricultural purposes as the**  
 22 **result of a pipeline crossing?**

23 **MR. BRAATEN: Object to form. Go ahead.**

24 **A. I don't know.**

25 **Q. (MR. FORSTER CONTINUING) Are there some**

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24

1 pipelines, to your knowledge, that cross under that  
 2 field that's rented by J.P. Klamm on the subject  
 3 lands?

4 **A. Yes.**

5 **Q.** And notwithstanding those pipeline  
 6 crossings, Mr. Klamm does continue to be able to  
 7 use the field for growing crops; correct?

8 **A. Yes.**

9 **Q.** Are there multiple pipelines that cross  
 10 the subject property?

11 **A. Yes.**

12 **Q.** And do they -- do they all cross the  
 13 property in one specific area, or do they follow a  
 14 variety of routes across the property?

15 MR. BRAATEN: Object to form.

16 **A. You're asking two different questions. Do**  
**they all -- to the best of my knowledge, they all**  
**follow the same route as close as possible.**

19 **Q. (MR. FORSTER CONTINUING)** All the  
 20 pipelines across the subject property follow the  
 21 same route as much as possible. Could you -- I'm  
 22 going to hand you a black Sharpie pen. Would you  
 23 be able to -- if I hand you the pen, would you be  
 24 able to draw on Exhibit 2 approximately what that  
 25 route is across the subject lands?

23

1 **A. No.**

2 **Q.** Fair enough. In terms of wherever the  
 3 pipelines cross the subject lands, is there any  
 4 physical barrier, like a fence or any other  
 5 physical barrier, that separates that area where  
 6 the pipelines cross from the remainder of the  
 7 subject property?

8 **A. I don't know.**

9 **Q.** Not to your knowledge?

10 **A. I don't know.**

11 **Q.** When's the last time you were physically  
 12 present at the subject lands?

13 **A. I would have to say it's been at least**  
**three years since I've been there --**

15 **Q.** Right.

16 **A. -- in the subject lands outlined by the**  
**yellow. I've been at my residence.**

18 **Q.** Fair enough. I understand.

19 **A. Okay.**

20 **Q.** Do you remember -- do you have any  
 21 recollection last time you were at the subject  
 22 lands of seeing any fenced-off area or other  
 23 physical barrier that separates a pipeline area  
 24 from the remainder of the subject lands?

25 **A. I don't know.**

1 **Q.** No recollection?

2 **A. I can't remember. No.**

3 **Q.** To your knowledge, has there been an area  
 4 that includes the pipeline area or pipeline  
 5 corridor that's been subdivided from the rest of  
 6 the subject lands with the county? Do you have any  
 7 knowledge of that?

8 **A. Could you repeat that, please?**

9 **Q.** So I think you said that, at least to the  
 10 best of your knowledge, the pipelines all cross the  
 11 subject lands along roughly the same route; right?

12 **A. To the best of my knowledge.**

13 **Q.** Do you have any knowledge of that area  
 14 having been subdivided in proceedings with the  
 15 county -- subdivided from the remainder of the  
 16 subject lands?

17 **A. No.**

18 **Q.** Before this present lawsuit with WBI  
 19 Energy happened, do you have any knowledge of the  
 20 area that the pipelines cross being appraised  
 21 separately from the remainder of the subject lands?

22 **A. No.**

23 **Q.** Do you have any knowledge of the area  
 24 crossed by the pipelines being zoned separately  
 25 from the remainder of the subject lands?

25

1 **A. No.**

2 **Q.** Do you have any knowledge of the area  
 3 crossed by the pipelines ever having been assessed  
 4 for tax purposes separately from the rest of the  
 5 subject lands?

6 **A. I don't know.**

7 **Q.** You have no knowledge of that?

8 **A. No.**

9 **Q.** And, again, you're the owner of the entire  
 10 subject lands; right?

11 **A. Yes.**

12 **Q.** The -- you're the fee owner of the area  
 13 crossed by the pipelines and the remainder of the  
 14 subject lands? There's no other fee owners --  
 15 separate fee owners of the area crossed by the  
 16 pipelines?

17 **A. No.**

18 **Q.** I want to talk now a little bit about the  
 19 specific WBI easement and WBI pipeline that's at  
 20 issue in this action. And, again, I think we agree  
 21 that that's -- that WBI Energy's easement is  
 22 depicted on Exhibit 1; correct?

23 **A. I believe so.**

24 **Q.** And WBI Energy -- my understanding is they  
 25 constructed a pipeline within that easement area in

1 the -- in 2018. Does that sound right?

2 **A. I don't know.**

3 **Q.** And -- well, I guess let me ask this. Did  
4 you personally observe any of the construction of  
5 WBI Energy's specific pipeline that's at issue in  
6 this action?

7 **A. No.**

8 **Q.** And do you have any knowledge of any  
9 unexpected issues that came up in the course of  
10 constructing the pipeline?

11 MR. BRAATEN: Object to form.

12 **A. I don't know.**

13 **Q.** (MR. FORSTER CONTINUING) Do you have any  
14 -- do you have any knowledge whether there were any  
15 problems or issues that came up with respect to the  
16 subject lands when WBI Energy was reclaiming the  
17 lands after installing the pipeline?

18 MR. BRAATEN: Object to form. Go ahead.

19 **A. I don't know.**

20 **Q.** (MR. FORSTER CONTINUING) No recollection  
21 of that?

22 MR. BRAATEN: Object to form.

23 **A. I don't know. I was busy fighting cancer  
with my husband.**

25 **Q.** (MR. FORSTER CONTINUING) Fair enough.

1 in Section 12?

2 **A. Yes.**

3 **Q.** And for our discussion purposes, I think I  
4 have a separate plat that depicts that road  
5 specifically. We'll mark that as an exhibit.

6 (Deposition Exhibit No. 6 was marked for  
7 identification.)

8 **Q.** (MR. FORSTER CONTINUING) Have you had a  
9 chance to look at Exhibit 6?

10 **A. Yes.**

11 **Q.** And does that Exhibit 6 appear to show the  
12 access road that we were just discussing?

13 **A. Yes.**

14 **Q.** Do you know who built or maintains --  
15 well, let me back up.

16 Do you know who built this road?

17 **A. No.**

18 **Q.** Do you know who maintains the road?

19 **A. No.**

20 **Q.** And my understanding is it's a graded  
21 scoria road; is that right?

22 **A. It has scoria on it.**

23 **Q.** And is the road graded? In other words,  
24 is there earthwork such that the road is a little  
25 bit elevated from the surrounding land?

27

29

1 And I'm not meaning to prod. I'm just trying to  
2 make sure that I -- you know, that I have an --  
3 this is my chance to kind of talk with you and, you  
4 know, understand what your knowledge of the facts  
5 are, so I'm just trying to make sure that I explore  
6 what your recollections are with respect to this  
7 pipeline.

8 Did you personally ever go out and inspect  
9 the -- inspect the subject property and  
10 specifically the area where the pipeline was  
11 installed after the installation of the pipeline?

12 **A. No.**

13 **Q.** I want to talk now a little bit about the  
14 access road that crosses the property, and I think  
15 it's -- I think it's shown on Exhibit 2 running  
16 along the southern line of the property as you come  
17 in -- what would that be, from the west? Is there  
18 a road that runs along there?

19 **A. From the west, yes.**

20 **Q.** And then the road comes off the property  
21 line and runs down to the southeast and goes past  
22 those well pads; is that right?

23 **A. Yes.**

24 **Q.** And then ultimately runs off the property  
25 past the section line and out to another well pad

1 **A. I believe so.**

2 **Q.** And I apologize. I can't remember if I  
3 asked this. Do you know who maintains the road  
4 currently?

5 **A. No.**

6 **Q.** Do you know who uses the road currently?

7 **A. I would assume the people going to the oil  
locations as well as my renter for farming access.**

9 **Q.** Mr. Klamm?

10 **A. Yes.**

11 **Q.** Do you have -- do you have any knowledge  
12 as to whether that road is or ever has been  
13 maintained by McKenzie County?

14 **A. Not to my knowledge.**

15 **Q.** Is there any -- is there any signage on  
16 the road that you can remember at either of the  
17 access points or anywhere along the road?

18 **A. I don't know.**

19 **Q.** Do you recall if there's a street sign  
20 with a county street name on the road?

21 **A. I would say no.**

22 **Q.** And, again, it's been, I think you said,  
23 three years since you've visited the subject  
24 property?

25 **A. I could have driven through there, but as**

1 far as observation, I have no recollection of  
2 anything.

3 Q. Okay. Do you remember the last time you  
4 viewed the access road that's shown on Exhibit 6?

5 A. No.

6 Q. Has it been more than three years?

7 A. No.

8 Q. About how recently do you think it's been  
9 since you viewed the access road?

10 A. I can't answer that.

11 Q. Within the last month?

12 A. No.

13 Q. Within the last year?

14 A. I don't remember.

15 MR. FORSTER: We'll mark Exhibit 7.

16 (Deposition Exhibit No. 7 was marked for  
17 identification.)

18 Q. (MR. FORSTER CONTINUING) Do you have  
19 Exhibit 7 in front of you, Ms. Hoffmann?

20 A. Yes.

21 Q. And I'll represent to you that I simply  
22 went on the McKenzie County mapping service online  
23 and pulled up the map that shows county roads.  
24 Does this Exhibit 7 appear to you to depict the  
25 same access road that we were just discussing?

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1 A. Yes.

2 Q. And at least on this Exhibit 7 it appears  
3 to be labeled, if you look at the callout box with  
4 the street label row, it appears that the county's  
5 map shows this as 22F Street Northwest. Do you see  
6 that?

7 A. I see that.

8 Q. Do you have any knowledge as to why this  
9 road would be shown as part of the county road  
10 system?

11 MR. BRAATEN: Object to form.

12 A. My understanding from working at the  
13 courthouse, they like to label roads, paths,  
14 whatever, in case there's an emergency and someone  
15 needs to get to that area.

16 Q. (MR. FORSTER CONTINUING) So I guess let  
17 me back up. Do you know whether or not this road  
18 is treated as part of the county road system by  
19 McKenzie County?

20 MR. BRAATEN: Object to form. Go ahead  
21 and answer.

22 A. No.

23 Q. (MR. FORSTER CONTINUING) You don't know?

24 A. I don't know.

25 (Deposition Exhibit No. 8 was marked for

1 identification.)

2 Q. (MR. FORSTER CONTINUING) And you have  
3 Exhibit 8 in front of you, Ms. Hoffmann?

4 A. Yes.

5 Q. This -- and I'll represent to you this map  
6 is likewise something I downloaded from the  
7 McKenzie County map system -- road map system  
8 online. Does this map appear to again show the  
9 access road that we were talking about?

10 A. Yes.

11 Q. And in this case the little callout box is  
12 pointing to a small spur that comes off of that  
13 access road; right?

14 A. Yes.

15 Q. Is that -- does that spur to you appear to  
16 possibly be an access to one of the Newfield well  
17 pads on the property?

18 A. I don't know.

19 Q. Regardless of the purpose it serves, that  
20 little spur that comes off in roadway type is  
21 marked private; correct?

22 MR. BRAATEN: Object to foundation.

23 A. The spur is marked private.

24 Q. (MR. FORSTER CONTINUING) And that differs  
25 from -- well, if we look back at Exhibit 7, the

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33

1 roadway type is marked gravel; is that correct?

2 A. Yes.

3 Q. At least on its face Exhibit 7 doesn't say  
4 that this is a private road, does it?

5 MR. BRAATEN: Object to form and  
6 foundation.

7 A. The form says it's a gravel road.

8 Q. (MR. FORSTER CONTINUING) Fair enough.  
9 (Deposition Exhibit No. 9 was marked for  
10 identification.)

11 Q. (MR. FORSTER CONTINUING) I'll show you  
12 Exhibit 9. Let me know once you've had a chance to  
13 review Exhibit 9.

14 A. Okay.

15 Q. And this appears to be a Road Use  
16 Agreement and Easement from yourself and David  
17 Hoffmann to McKenzie County; is that right?

18 A. I don't know.

19 Q. Okay. The document at least at the top is  
20 labeled Road Use Agreement and Easement?

21 A. Yes.

22 Q. Does that appear -- if we look at the  
23 signature page, does it appear that you signed the  
24 document?

25 A. I did.

1       Q. And it appears that Mr. Hoffmann signed  
2 the document as well?

3       **A. He did.**

4       Q. Do you remember anything about the  
5 circumstances that gave rise to this agreement?

6       **A. I do not.**

7       Q. Now, if we look at the unnumbered  
8 paragraph on the first page at the top of the page,  
9 and look about -- well, if we just look at the  
10 legal description it says, Grantor, in  
11 consideration of \$10 which has been received, and  
12 other good and valuable consideration, conveys to  
13 McKenzie County, then the address (grantee), an  
14 easement to construct, operate, maintain, and  
15 remove one right-of-way with the right of ingress  
16 and egress, over certain land in the Southeast of  
17 Section 11, and the North Half of the Northeast of  
18 Section 14, Township 149 North, Range 98 West,  
19 McKenzie County, North Dakota, hereinafter referred  
20 to as the easement area which is a strip of land 66  
21 feet wide, in order to deviate from the section  
22 line, as needed, to develop an access route around  
23 two oil and gas well sites constructed within the  
24 statutory right-of-way as shown on the attached  
25 exhibit. Prior to construct, grantee shall obtain

35

1 written consent for the final placement of the  
2 easement area from grantor, of which shall not be  
3 unreasonably withheld.

4           So my question is, there's a reference to  
5 providing an access route around two oil and gas  
6 well sites constructed within the statutory  
7 right-of-way. If we look at Exhibit 2, those two  
8 Newfield well pads, those are constructed across  
9 the section line between Section 11 and Section 14,  
10 aren't they?

11       **A. Yes.**

12       Q. You think it's likely that those are the  
13 two oil and gas well sites referred to in this Road  
14 Use and Easement Agreement?

15       **A. I believe so.**

16       Q. And do you think it's possible that this  
17 Road Use and Easement Agreement is referring to the  
18 access road that we were just discussing as an  
19 alternative easement area for public access because  
20 those well sites were now blocking the section line  
21 right-of-way?

22       MR. BRAATEN: Object to form.

23       **A. I believe, to the best of my knowledge, it  
24 was constructed to get to that well site.**

25       Q. (MR. FORSTER CONTINUING) That the access

1 road was constructed to get to the Newfield well  
2 site?

3       **A. I really don't remember.**

4       Q. Fair enough. Just to kind of put a button  
5 on it, going through this Road Use and Easement  
6 Agreement, does this refresh your recollection in  
7 any way in terms of the circumstances under which  
8 the document was entered into with McKenzie County?

9       **A. No.**

10       Q. Does this Road Use Agreement and Easement,  
11 to your understanding, appear to refer to that  
12 access road down to the Newfield well sites?

13       **A. Yes.**

14       Q. All right. We'll move on. I want to talk  
15 a little bit now about -- and, you know, obviously  
16 I had a point to asking about -- all these  
17 questions about this access road.

18       Do you have any understanding about  
19 whether WBI Energy used this access road when it  
20 was constructing its pipeline that's at issue in  
21 this action?

22       **A. Can you repeat that, please?**

23       Q. Do you have any knowledge or understanding  
24 as to whether WBI Energy used this access road that  
25 we've been discussing?

37

1       **A. I have no knowledge of it. I don't know  
2 how else they'd get there.**

3       Q. And when you say you don't know how else  
4 they'd get there, are you saying that there's no  
5 other road by which they could access their  
6 easement on the subject land?

7       **A. Not to my knowledge.**

8       Q. Is it possible that they could access  
9 their easement by following -- well, let me ask  
10 this way. WBI Energy's pipeline easement runs  
11 across and exits the subject lands both on the  
12 north and on the south; right?

13       **A. Yes.**

14       Q. And presumably WBI Energy's pipeline then  
15 follows easements on the neighboring landowners'  
16 lands?

17       **A. I don't know.**

18       Q. Is it possible that WBI Energy could  
19 access their easement on the subject lands simply  
20 by following the route of their own pipeline as  
21 they were constructing it?

22       **A. I don't know.**

23       Q. Aside from what we've already discussed,  
24 do you have any other understanding from discussion  
25 with anyone else about whether WBI Energy used the

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1 access road that we've been discussing? Probably  
 2 I've asked a terrible question. You look confused.  
 3 Sorry. I've been known to do that. Let me  
 4 rephrase.

5 I think you said you have no personal  
 6 knowledge about whether or not WBI Energy used the  
 7 access road; is that right?

8 **A. Correct.**

9 **Q.** Do you have an understanding by way of  
 10 having conversations with anyone else about whether  
 11 or not WBI Energy used this access road?

12 **A. I've heard someone saw them use it.**

13 **Q.** And that's what I was getting at. Who  
 14 told you that they saw WBI use it?

15 **A. Randy Stevenson.**

16 **Q.** And what do you remember about what Randy  
 17 Stevenson told you?

18 **A. That he saw them use the road.**

19 **Q.** Do you remember if he said at what point  
 20 in time he saw them use the road?

21 **A. I have no knowledge of that.**

22 **Q.** Did Mr. Stevenson tell you how many  
 23 vehicles he saw using the road?

24 **A. No.**

25 **Q.** Did he tell you what kind of vehicles he

39 1 saw using the road?

2 **A. No.**

3 **Q.** Did he tell you how he knew that it was  
 4 WBI Energy using the road?

5 **A. No.**

6 **Q.** Did he tell you whether it was just one  
 7 time that he saw them using the road or on multiple  
 8 occasions?

9 **A. It was a very brief conversation and he  
 10 indicated he had seen them use the road.**

11 **Q.** Is there anything else, any additional  
 12 detail from that conversation that you remember?

13 **A. No.**

14 **Q.** Aside from that conversation that we  
 15 covered, have you had any other conversations with  
 16 Randy Stevenson or anyone else telling you that  
 17 they saw WBI Energy using this access road?

18 **A. No.**

19 **Q.** Do you remember at what point in time that  
 20 conversation with Randy Stevenson was, about how  
 21 long ago that was?

22 **A. Just recently.**

23 **Q.** Within the last month?

24 **A. Yes.**

25 **Q.** Within the last week?

1 **A. Yes.**

2 **Q.** And prior to that conversation within the  
 3 last week, Randy Stevenson had never mentioned  
 4 anything to you about WBI Energy using the road?

5 **A. We don't generally communicate.**

6 **Q.** You don't talk with Mr. Stevenson very  
 7 often?

8 **A. No.**

9 MR. FORSTER: We've been going for a  
 10 little over an hour. Would you all like a break or  
 11 would you prefer to keep going? I can go either  
 12 way.

13 (Discussion had off the record.)

14 **Q. (MR. FORSTER CONTINUING)** So let's change  
 15 gears a little bit and talk about some other  
 16 pipelines that cross the subject lands. Are you  
 17 aware that WBI Energy -- before this action, are  
 18 you aware that they previously installed a  
 19 different pipeline across the subject lands?

20 **A. I don't -- I don't know.**

21 **(Deposition Exhibit No. 10 was marked for  
 22 identification.)**

23 MR. FORSTER: You know what, I marked the  
 24 wrong exhibit, but that's okay. We'll come back to  
 25 it later.

41

1 **(Deposition Exhibit No. 11 was marked for  
 2 identification.)**

3 **Q. (MR. FORSTER CONTINUING)** Have you had a  
 4 chance to look through Exhibit 11?

5 **A. Yes.**

6 **Q.** This Exhibit 11 appears to me to be an  
 7 easement and related agreements pertaining to --  
 8 well, dated 2014 and pertaining to a WBI Energy  
 9 pipeline easement across the subject lands. Would  
 10 you agree with that?

11 **A. Yes.**

12 **Q.** And you'd agree that this pipeline  
 13 referred to in this agreement, this will be a  
 14 different pipeline from the one that's at issue in  
 15 this action; correct?

16 **A. Correct.**

17 **Q.** And if we look at the plat for this  
 18 easement, if you look at the bottom right of the  
 19 page, there's -- we call them Bates stamps, but  
 20 they're really just page numbers. If we look at  
 21 the page marked 00026, do you see that?

22 **A. Yes.**

23 **Q.** It appears to me that this 2014 pipeline  
 24 follows approximately the same route as the  
 25 pipeline that's at issue in this action; is that

1 right?  
 2 A. Yes.  
 3 Q. Runs parallel to it?  
 4 A. Yes.  
 5 Q. And if we go to the page marked 00028, it  
 6 says Land and Land Rights Receipt. Do you see  
 7 that?  
 8 A. Yes.  
 9 Q. If you look down the page, there's a  
 10 breakout of the compensation and it says that there  
 11 was a total easement payment 50-foot permanent and  
 12 25-foot temporary at \$110 a rod. Do you see that?  
 13 A. Yes.  
 14 Q. And then advance damages on 75-foot  
 15 right-of-way, \$15 a rod. Do you see that?  
 16 A. Yes.  
 17 Q. That would come to total compensation of  
 18 \$125 a rod; is that right?  
 19 A. That's correct.  
 20 Q. So far as you know, is that the  
 21 compensation that you and Mr. Hoffmann received for  
 22 this 2014 pipeline?  
 23 A. I don't have any recollection of this, but  
 24 my husband used to handle all of this.  
 25 Q. Fair enough. If you look at page 28, that

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1 Land and Land Rights Receipt appears to be signed  
 2 by both yourself and Mr. Hoffmann; correct?  
 3 A. It is.

4 Q. And as far as you recall, it would have  
 5 been Mr. Hoffmann who negotiated the details of  
 6 this?

7 A. Yes.

8 Q. You don't have any reason to dispute any  
 9 of the details that are shown in these documents,  
 10 do you?

11 MR. BRAATEN: Object to form and  
 12 foundation. Go ahead.

13 A. Not in this document.

14 Q. (MR. FORSTER CONTINUING) And really what  
 15 I was getting at is you don't have any reason to  
 16 dispute that the compensation amounts shown on page  
 17 28 -- you don't have any reason to dispute those  
 18 were the amounts paid for this pipeline, do you?

19 A. No.

20 Q. And if you look to the pages 29 and 30, it  
 21 looks like there are -- well, let's start with page  
 22 29. That release -- it's marked Release of  
 23 Damages. Do you see that?

24 A. Yes.

25 Q. And that amount appears to correspond to

1 the \$15 a rod in advance damages that were shown on  
 2 page 28?  
 3 A. It does.  
 4 Q. And then page 30 appears to show an  
 5 additional \$400 paid in damages; is that right?  
 6 A. Correct.  
 7 Q. And both of those releases are also signed  
 8 by yourself and Mr. Hoffmann?  
 9 A. Yes.  
 10 Q. And, again, you don't have any reason as  
 11 you sit here to dispute that those were the damages  
 12 amounts paid for this pipeline, do you?  
 13 A. No.  
 14 Q. And aside from the amounts shown on that  
 15 receipt and these two release of damage sheets, are  
 16 you aware of any other compensation that was paid  
 17 for that 2014 pipeline?  
 18 A. No.  
 19 Q. We talked a little bit about -- we talked  
 20 a little bit about the WBI Energy easement in 2014;  
 21 we talked a little bit about the pipeline that's at  
 22 issue in this case. Are there pipelines owned by  
 23 other companies that cross the subject lands?  
 24 A. Yes.  
 25 Q. And did you personally negotiate any of

45

1 the easements or compensation arrangements for any  
 2 of those pipelines?

3 A. Not until my husband passed away.

4 Q. After your husband passed away, have you  
 5 since then negotiated any easements or compensation  
 6 arrangements for pipelines crossing the subject  
 7 property?

8 A. Yes.

9 Q. And I think what we'll do is mark an  
 10 exhibit.

11 (Deposition Exhibit No. 12 was marked for  
 12 identification.)

13 Q. (MR. FORSTER CONTINUING) Ms. Hoffmann, do  
 14 you remember seeing this document before?

15 A. No.

16 Q. And I'll represent to you that this is an  
 17 appraisal report that your attorney, Mr. Braaten,  
 18 produced concerning the compensation claimed in  
 19 this action. Are you aware that there was an  
 20 appraisal performed for yourself and the other  
 21 landowners in this action?

22 A. Yes.

23 Q. And what I'm going to do is walk through a  
 24 few of the details of this report because it refers  
 25 to some other pipeline easements, some of which

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1 appear to cross your property, so I'm going to --  
 2 I'd like to walk through some of those with you.  
 3 And let's -- if you can flip back to Addendum A,  
 4 comparable land sales, we'll start there. If you  
 5 turn to comparable land sale 1, is this a -- this  
 6 comparable land sale 1, does this appear to  
 7 summarize an easement transaction that's on the  
 8 subject lands? If you look at the subject lands on  
 9 Exhibit 2, that might help.

10 **A. Yes.**

11 **Q.** Yes, it does run across the subject lands?  
 12 MR. BRAATEN: Object to form.

13 **A. It runs across the South Half of the  
 14 Southeast Quarter in Section 11.**

15 (MR. FORSTER CONTINUING) And that's part  
 16 of the subject lands shown on Exhibit 2; right?

17 **A. That's correct.**

18 **Q.** It runs -- it looks to me like it runs  
 19 east to west just to the north of those two well  
 20 pads and access road; is that accurate?

21 **A. I'm not familiar with the route.**

22 **Q.** If we go back to Exhibit 10, which was  
 23 marked previously, and look at Exhibit 10, and what  
 24 I'd like to do is look through Exhibit 10 and let  
 25 me know if those appear to be the easement and

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1 **A. I see that.**

2 **Q.** So far as you know, is that red hash mark  
 3 route the route of this pipeline?

4 **A. I don't know.**

5 **Q.** It appears to me that DDH 223 was  
 6 initialed by yourself and Mr. Hoffmann. Does that  
 7 appear to be the case? If you look up at the  
 8 little -- what appears to me to be initials circled  
 9 in black pen.

10 **A. It was initialed by us, yes.**

11 **Q.** Okay. Any reason to think that the route  
 12 of this pipeline is something other than what's  
 13 shown as the proposed pipeline route in the red  
 14 hash marks on this page?

15 **A. I don't know. I honestly don't remember.  
 16 I don't remember.**

17 **Q.** And that's fair enough. I was just trying  
 18 to establish for the record that you didn't have  
 19 any other knowledge -- any reason to think that the  
 20 pipeline route is something different from what's  
 21 shown in the documents.

22 **A. No.**

23 **Q.** If we look at the pipeline route that is  
 24 shown in the documents, it appears that the  
 25 pipeline runs primarily east to west parallel to

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1 related documents that were signed with respect to  
 2 the easement that's shown as comparable land sale  
 3 1.

4 **A. I'm sorry. This was four days before my  
 5 husband passed away. This is not -- it's going to  
 6 take me a few minutes. I forgot the question. I'm  
 7 sorry.**

8 **Q.** That's okay. So after looking through  
 9 Exhibit 10, my question is just whether these  
 10 appear to be the easement agreement and related  
 11 documents that were signed by you and Mr. Hoffmann  
 12 with respect to the transaction that's shown as  
 13 comparable land sale 1 in the appraisal.

14 **A. So is this document representing this land  
 15 sale?**

16 **Q.** Exactly.

17 **A. Yes.**

18 **Q.** And if we turn to the page marked DDH  
 19 223 --

20 **A. Okay.**

21 **Q.** -- I'm just trying to nail down what the  
 22 route of this pipeline is on the subject lands.  
 23 There's a little box with an arrow that says  
 24 proposed pipeline and then it points to a little  
 25 red hash mark. Do you see that?

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1 the access road on the subject lands. Is that  
 2 fair?

3 **A. Yes.**

4 **Q.** And it appears to run up to a proposed  
 5 valve site labeled as being .44 acres just to the  
 6 northwest of those two well pads; is that fair?

7 **A. Yes.**

8 **Q.** Now, at least as the route for this  
 9 pipeline is depicted in these documents, the  
 10 pipeline here shown on DDH 223 would be basically  
 11 at a route that's perpendicular to the WBI easement  
 12 at issue in this action, wouldn't it?

13 **A. I don't know.**

14 **Q.** If you look at Exhibit No. 1, the WBI  
 15 easement, the WBI easement basically runs north to  
 16 south across the subject lands; correct?

17 **A. Yes.**

18 **Q.** This proposed valve site on the surface,  
 19 do you see that?

20 **A. Yes.**

21 **Q.** The -- well, let me ask you this. Were  
 22 you the one who negotiated this easement?

23 **A. No.**

24 **Q.** Was that your husband who did?

25 **A. Yes.**

1       **Q.** Do you know if that valve site -- is that  
2 an aboveground location on the subject lands?

3       **A. I don't know.**

4       **Q.** Assuming it is, is it possible that  
5 additional compensation was paid for this pipeline  
6 because there was an aboveground valve site?

7            MR. BRAATEN: Object to form.

8       **A. Was additional compensation paid other  
9 than what we received?**

10       **Q.** (MR. FORSTER CONTINUING) No, not other  
11 than what you received, but is it possible that the  
12 price per rod would have been higher because  
13 there's an aboveground facility?

14       **A. That's generally --**

15       MR. BRAATEN: Object to form and  
16 foundation. Go ahead.

17            THE WITNESS: That's generally not how my  
18 husband negotiated. It would have had nothing to  
19 do with the valve site. He would have negotiated  
20 the said price per rod.

21       **Q.** (MR. FORSTER CONTINUING) The price per  
22 rod separately?

23       **A. He would have just negotiated the price  
24 per rod. If a valve site was included, I'm not  
25 sure. He -- I don't know.**

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1       **Q.** Okay. Your understanding is he basically  
2 would have just negotiated a price per rod to  
3 include everything?

4            MR. BRAATEN: Object to form. Go ahead.

5       **A. He generally negotiated a price per rod.  
6 I'm not familiar with what he did with valve sites.**

7       **Q.** (MR. FORSTER CONTINUING) Have you  
8 negotiated -- I think you said you've negotiated  
9 one or more additional easements over the past  
10 year; is that right?

11       **A. Yes.**

12       **Q.** Did any of those involve valve sites or  
13 other aboveground facilities as part of the deal?

14       MR. BRAATEN: Object to foundation. Go  
15 ahead.

16       **A. No.**

17       **Q.** (MR. FORSTER CONTINUING) If we look at  
18 the summary on the appraisal for comparable land  
19 sale number 1, as they're -- well, just take a  
20 minute and review that. My question is going to be  
21 whether you have any reason to dispute the accuracy  
22 of any of the information that's shown on that  
23 summary.

24       **A. Other than the fact that my name is  
25 spelled wrong, no.**

1       **Q.** Other than that, no reason to dispute any  
2 of the information?

3       **A. To my knowledge, it's correct.**

4       **Q.** Let's turn to comparable land sale number  
5 3. And does this land sale number 3 appear to  
6 pertain to a pipeline easement transaction that's  
7 on the subject lands -- your subject lands that  
8 we've been discussing?

9       **A. Are we just in this corner down here? I'm  
10 not sure the route of the pipeline. I'm not  
11 following it.**

12       **Q.** It's difficult to tell from this summary  
13 where exactly this pipeline runs?

14       **A. Sorry. I don't know. I don't know if I'm  
15 looking at the blue line, the red line or the black  
16 line.**

17       **Q.** And I'm not exactly sure either. That's  
18 why I'm asking. Fair to say you did not negotiate  
19 this easement?

20       **A. No.**

21       **Q.** Do you have any personal knowledge about  
22 where this pipeline was actually installed on the  
23 subject lands?

24       **A. No.**

25       **Q.** Do you have any personal knowledge about

53

1       whether this pipeline that's referred to in the  
2 summary was actually installed on the subject  
3 lands?

4       **A. I don't know.**

5       **MR. FORSTER:** Off the record.

6            (Recess taken at 10:42 a.m. and reconvened  
7 at 10:55 a.m.)

8       **Q.** (MR. FORSTER CONTINUING) Let's go back to  
9 the appraisal, which I believe is marked as Exhibit  
10 12, and turn now to comparable land sale number 4.  
11 And does the transaction that's summarized in  
12 comparable land sale number 4 appear to relate to a  
13 pipeline easement across the subject property?

14       **A. It does.**

15       **Q.** And I have a document that I think will  
16 help our discussion for this one.

17            (Deposition Exhibit No. 13 was marked for  
18 identification.)

19       **Q.** (MR. FORSTER CONTINUING) Let me know once  
20 you've had a chance to look through Exhibit 13.  
21 And the question again is going to be whether these  
22 documents appear to be the easement and related  
23 documents pertaining to the land sale shown in land  
24 sale number 4.

25       **A. They do.**

1       **Q.** And if we look to page 215, does that  
 2 appear to depict in a blue line the route of this  
 3 pipeline across the subject lands?

4       **A. Yes.**

5       **Q.** If we compare the route of this pipeline  
 6 to the WBI easement shown in Exhibit 1, do they  
 7 follow the same route across the subject lands?

8            MR. BRAATEN: Object to foundation.

9       **A. I don't know.**

10       **Q.** (MR. FORSTER CONTINUING) I think Exhibit  
 11 1 might be underneath there. Sorry. Too many  
 12 exhibits. Now that you have both documents in  
 13 front of you, we're comparing the WBI easement  
 14 shown on Exhibit 1 versus the pipeline route shown  
 15 on Exhibit 13 at page 215. Do those pipelines  
 16 appear to follow the same route across the subject  
 17 lands?

18            MR. BRAATEN: Object to form and  
 19 foundation.

20       **A. I don't know.**

21       **Q.** (MR. FORSTER CONTINUING) It looks to me  
 22 like they follow different routes. Don't you  
 23 agree?

24            MR. BRAATEN: Object to form.

25       **A. In Section 11 they are in the same place**

1 is that right?

2       **A. Yes.**

3       **Q.** If you look at the -- well, do you know  
 4 what kind of pipeline the pipeline shown in Exhibit  
 5 4 is? I apologize. Strike that.

6            What kind of pipeline the Hiland Crude  
 7 pipeline shown as comparable land sale number 4 is.

8       **A. No.**

9       **Q.** Do you know whether it's an oil pipeline  
 10 versus a gas pipeline?

11       **A. I don't know.**

12       **Q.** If you look at the details summarized on  
 13 comparable land sale number 4, do you have any  
 14 reason to dispute the accuracy of any of the  
 15 details that are summarized on that page?

16       **A. No.**

17       **Q.** Did you negotiate the easement -- the  
 18 transaction that's shown as comparable land sale  
 19 number 4?

20       **A. No.**

21       **Q.** Again, that would have been Mr. Hoffmann?

22       **A. Yes.**

23       **Q.** Aside from what's shown on the documents,  
 24 do you have any personal knowledge of the  
 25 compensation received in that transaction?

55

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1       **A. for part of the pipeline.**

2       **Q.** (MR. FORSTER CONTINUING) Part of the  
 3 pipeline is in the same place in Section 11. And  
 4 then this Exhibit 13 shows a Hiland Crude pipeline;  
 5 is that right?

6       **A. Yes.**

7       **Q.** And it appears to me that the Hiland  
 8 pipeline, as you go into the north half of the  
 9 south half, the Hiland pipeline basically follows  
 10 the property line and the access road and runs off  
 11 to the west. Does that look right?

12       **A. What section are you in?**

13       **Q.** 11.

14       **A. What was your question?**

15       **Q.** Maybe I can do it this way. I'm not  
 16 trying to ask a trick question. The Hiland  
 17 pipeline shown at page 215 of Exhibit 13, it  
 18 appears to run over to the west side of Section 11  
 19 and it exits the subject lands to the west into  
 20 Section 10; correct?

21       **A. Yes.**

22       **Q.** Whereas the WBI easement shown on Exhibit  
 23 1 maintains a more or less north-to-south  
 24 trajectory and exits the subject property running  
 25 out to the north into the North Half of Section 11;

1       **A. Other than what's stated here?**

2       **Q.** Yes, other than what's shown in the  
 3 appraisal and that Exhibit 13.

4       **A. No.**

5       **Q.** Okay. Let's go on to comparable land sale  
 6 number 5 in the appraisal. This appears to be a  
 7 transaction from yourself and Mr. Hoffmann, as  
 8 grantor, and American Midstream Bakken, LLC, as  
 9 grantee; is that right?

10       **A. Yes.**

11       **Q.** And does this transaction appear to relate  
 12 to a pipeline that crosses a portion of the subject  
 13 lands?

14       **A. Yes.**

15       **Q.** And it appears from the image shown on  
 16 comparable land sale 5 that this pipeline crosses a  
 17 portion of the Northwest of the Southwest Quarter  
 18 of Section 11 in the subject lands; is that right?

19       **A. Yes.**

20       **Q.** Does the WBI pipeline shown in Exhibit 1,  
 21 does that easement run through any part of the  
 22 southwest quarter of the subject lands?

23       **A. I don't know.**

24       **Q.** It appears to me that the WBI easement  
 25 runs through the -- further to the east through

1 part of the Southeast Quarter of Section 11; is  
2 that right?

3 **A. This is the Southeast Quarter of Section**  
4 **11; correct?**

5 **Q. That's my understanding.**

6 **A. Yes.**

7 **Q. And you're pointing to Exhibit 1?**

8 **A. Yes.**

9 **Q. And on that understanding, it appears that**  
10 the WBI easement runs through part of the Southeast  
11 Quarter of Section 11; is that right?

12 **A. Yes.**

13 **Q. And just to make sure we got it clear in**  
14 the record, the comparable land sale number 5  
15 appears to involve a pipeline that runs a bit  
16 further to the west and runs through a portion of  
17 the Southwest Quarter of Section 11; correct?

18 **A. Yes.**

19 **Q. And do you recall having any personal**  
20 involvement in the negotiation of this easement or  
21 this transaction shown as comparable land sale  
22 number 5?

23 **A. No.**

24 **Q. Do you have any personal knowledge about**  
25 the compensation paid for that easement?

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1 **A. Other than what's stated, no.**

2 **Q. Nothing other than what's stated in the**  
3 appraisal?

4 **A. Correct.**

5 **Q. No reason to dispute what's stated in the**  
6 appraisal; correct?

7 **A. Correct.**

8 **Q. But also you don't have any -- you don't**  
9 have any personal knowledge to confirm what's  
10 stated in the appraisal?

11 **A. No.**

12 **Q. Fair enough. Let's go on to comparable**  
13 land sale number 8. Are you at comparable land  
14 sale number 8?

15 **A. Yes.**

16 **Q. This appears to be a transaction between**  
17 yourself and Mr. Hoffmann and Bridger Pipeline,  
18 LLC; is that right?

19 **A. Yes.**

20 **Q. And it involves a pipeline easement that**  
21 crosses a portion of the subject lands?

22 **A. Yes.**

23 **Q. And if we look at the diagram, there's a**  
24 lot going on on this diagram on comparable land  
25 sale number 8, but if you look just below the

1 1/16th line on the diagram, there's a label that  
2 says block valve site 4. Do you see that?

3 **A. Yes.**

4 **Q. Do you have any knowledge as to whether**  
5 there was separate compensation paid for that block  
6 valve site or whether that was included in the  
7 price per rod for this pipeline easement?

8 **A. I don't know.**

9 **Q. Do you know whether that block valve site**  
10 represents an aboveground facility on this  
11 pipeline?

12 **A. I don't know.**

13 **Q. And if we look at the details that are**  
14 summarized in comparable land sale number 8, do you  
15 have any personal knowledge to be able to confirm  
16 the amounts paid for this easement shown in  
17 comparable land sale number 8?

18 **A. No.**

19 **Q. Let's go on to comparable land sale number**  
20 10. I think this is the last one on your property,  
21 so getting there. Take a minute and let me know  
22 when you've had a chance to look at the comparable  
23 land sale number 10.

24 **A. I'm not sure what a north half of a west**  
25 **quarter is.**

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1 **Q. And that's a fair point. It looks to me**  
2 like you're referring to part of the legal  
3 description in the location for comparable land  
4 sale 10?

5 **A. Yes. Under Section 11 it says the North**  
6 **Half of the West Quarter, and then further on it's**  
7 **the East Half of the East Quarter. I have not**  
8 **dissected them that way before.**

9 MR. BRAATEN: Fair enough.

10 **(MR. FORSTER CONTINUING) From the**  
11 information shown for comparable land sale number  
12 10, can you tell whether the pipeline runs through  
13 some portion of the subject lands at least?

14 **A. Yes.**

15 **Q. Can you tell what -- can you tell with any**  
16 specificity what part of the subject lands it runs  
17 through?

18 **A. The West Half of the Southeast Quarter**  
19 **would be correct. And the North Half of the**  
20 **Northeast Quarter of 14 would be correct.**

21 **Q. And did you have any personal involvement**  
22 that you recall negotiating the easement or  
23 transaction that's represented as comparable sale  
24 number 10?

25 **A. No.**

1       Q. Any knowledge about how that pipeline was  
2 actually installed on the subject lands?

3       A. No.

4       Q. Any personal knowledge to confirm the  
5 amount paid for that easement shown as comparable  
6 land sale number 10?

7       A. No.

8       Q. I want to talk for a moment about  
9 negotiations -- any negotiations with WBI Energy  
10 concerning the pipeline that's actually at issue in  
11 this action. Did you have any personal involvement  
12 in those negotiations?

13      A. No.

14      Q. Have you ever personally communicated with  
15 somebody from WBI Energy regarding the easement at  
16 issue in this action?

17      A. No.

18            **(Mrs. Margaret Hoffmann leaves the  
19 deposition room.)**

20      Q. (MR. FORSTER CONTINUING) And have you  
21 ever personally communicated with anybody from WBI  
22 Energy regarding the pipeline that's installed on  
23 that easement or the construction of the pipeline?

24      A. No.

25      Q. I'm going to hand you another document

63            which we will mark as an exhibit, should be Exhibit  
14, I believe.

3            (Deposition Exhibit No. 14 was marked for  
4 identification.)

5       Q. (MR. FORSTER CONTINUING) Let me know once  
6 you've had a chance to review this document.

7       A. I'm familiar with it, yes.

8       Q. What is this document?

9       A. It's an appraisal of my properties that  
10 was prepared for my husband's estate.

11      Q. Do the properties covered by this  
12 appraisal include the lands that we've been  
13 referring to as the subject lands?

14      A. Yes.

15      Q. And we don't need to go through the whole  
16 thing, but I believe that the appraisal appraises  
17 the surface estate of the subject lands among other  
18 lands that you own; is that fair?

19      A. Yes.

20      Q. If we look to the page marked DDH 262, I  
21 think this is sort of a summary of the appraisal  
22 and conclusions. Is there anything in the summary  
23 and conclusions on this page that you think are  
24 inaccurate or disagree with?

25            MR. BRAATEN: Object to form and

1       foundation.

2       Q. (MR. FORSTER CONTINUING) And I think you  
3 said you're familiar with this appraisal; correct?

4       A. I haven't read it in entirety, but it was  
5 necessary to be prepared for my husband's estate.

6       Q. Fair enough. Maybe an easier way rather  
7 than trying to pin you down on a specific page is  
8 just to ask, when the appraisal was completed, even  
9 if you didn't review the entire document, I assume  
10 that you looked at the valuations that the  
11 appraiser reached?

12      A. Yes.

13      Q. And do you have any reason to dispute  
14 those valuations?

15            MR. BRAATEN: Object to foundation.

16      A. I'm not familiar with appraisals.

17      Q. (MR. FORSTER CONTINUING) When the  
18 appraisal -- once the appraisal was done for the  
19 estate, did you -- I don't know if accept is the  
20 right word, but did you -- well, let's strike that.

21            When the appraisal was completed, did you  
22 do anything to dispute the conclusions in the  
23 appraisal for purposes of the estate?

24            MR. BRAATEN: Object to form and  
25 foundation.

1       A. I didn't dispute anything.

2       Q. (MR. FORSTER CONTINUING) And how was the  
3 appraisal used? I know you said it was for  
4 purposes of the estate. Do you have any further  
5 understanding in terms of how it was used, for what  
6 purposes?

7       A. For probate purposes.

8       Q. And it set the value of the land for  
9 probate purposes then; is that your understanding?

10      A. It set the value of the estate for probate  
11 -- for probate.

12      Q. And the value of the land shown in the  
13 appraisal was included in the value of the estate  
14 for probate purposes?

15      A. Yes.

16            MR. BRAATEN: Object to foundation.

17      Q. (MR. FORSTER CONTINUING) And if we look  
18 at the page 262, in the top portion, the property  
19 identification section, this appraiser concludes  
20 that the highest and best use of the property is  
21 agricultural - cropland and pasture; is that right?

22      A. That's what it says.

23      Q. If we look down to the bottom half of the  
24 appraisal report summary where it shows the  
25 allocation of value, the appraiser concludes a

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1 total land value of \$835,000, which comes to \$876  
 2 per acre; is that correct?

3 MR. BRAATEN: Object to form.

4 **A. That's what the document states.**

5 **Q. (MR. FORSTER CONTINUING)** And just to tie  
 6 this together, the top right corner where it says  
 7 total deeded acres and effective unit size, the  
 8 appraiser states that he's appraising a total area  
 9 of 953 acres; is that right?

10 MR. BRAATEN: Object to foundation.

11 **A. That's what the document says.**

12 **Q. (MR. FORSTER CONTINUING)** Jumping back to  
 13 the appraisal report summary, it looks like the  
 14 appraiser also includes a structural improvement  
 15 contribution of \$216,000. Do you see that?

16 **A. Yes.**

17 **Q. Do you know what structural improvements**  
 18 **were included on the lands covered by this**  
 19 **appraisal?**

20 **A. No.**

21 **Q. Was the residence included?**

22 **A. The residence is included in the**  
 23 **appraisal.**

24 **Q. And what value is given to the residence**  
 25 **in the appraisal?**

DENAE HOFFMANN

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1 **Q. Is Mr. Cymbaluk a well-known real estate**  
 2 **agent in the McKenzie County area?**

3 **A. I don't know.**

4 **Q. At least you had heard of him before he**  
 5 **did this appraisal?**

6 **A. Yes.**

7 **Q. And same question for Basin Brokers. Are**  
 8 **they a well-known firm in the McKenzie County area,**  
 9 **in your opinion?**

10 **A. I've heard of them.**

11 **Q. Do you think others in the area have heard**  
 12 **of them as well?**

13 **A. Yes. I would say yes.**

14 **Q. Do they sell quite a bit of land in the**  
 15 **McKenzie County area?**

16 MR. BRAATEN: Object to foundation.

17 **A. I don't know.**

18 **Q. (MR. FORSTER CONTINUING)** Have you seen  
 19 them involved in other real estate transactions in  
 20 the McKenzie County area in the past?

21 MR. BRAATEN: Object to form.

22 **A. Not personally.**

23 **Q. (MR. FORSTER CONTINUING)** Have you seen  
 24 Basin Brokers' signs or advertisements for real  
 25 estate sales of other properties in the McKenzie

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1 MR. BRAATEN: Object to form.

2 **Q. (MR. FORSTER CONTINUING)** If you know.

3 **A. I don't know.**

4 **Q. Do you have some reason to think that the**  
 5 **residence was assigned some value beyond the**  
 6 **\$216,000 structural improvement contribution that's**  
 7 **shown on the summary page?**

8 **A. I don't know if that's what the structural**  
 9 **improvement contribution was for.**

10 **Q. You just don't know either way?**

11 **A. I really don't.**

12 **Q. Okay. Do you have any -- outside of this**  
 13 **appraisal, do you have any prior experience with**  
 14 **Basin Brokers or Roger Cymbaluk?**

15 **A. I met him -- he did business at McKenzie**  
 16 **County with McKenzie County Auditor's Office. He**  
 17 **would occasionally walk through.**

18 **Q. Okay. Do you know what he does?**

19 **A. I think he's a real estate agent.**

20 **Q. A real estate agent. And he also does**  
 21 **appraisals apparently?**

22 **A. Yes.**

23 **Q. The appraisal says he's a certified**  
 24 **general appraiser.**

25 **A. It does.**

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1 County area?

2 **A. Yes.**

3 **Q. If we turn back to Exhibit 12, which is**  
 4 **the appraisal report for this action, and we walked**  
 5 **through before previously, I'll have you flip to**  
 6 **page 47. And if you look at this page, there's a**  
 7 **numbered list and it lists different landowners.**  
 8 **The list starts with, "Our market value estimate**  
 9 **should be allocated as follows," and that number 1**  
 10 **is the -- I believe, the easement across your**  
 11 **subject lands, the pipeline easement across your**  
 12 **subject lands. Does that appear to be the case?**

13 **A. Yes.**

14 **Q. And the appraiser assigns total**  
 15 **compensation of \$117,665. Do you see that?**

16 **A. Yes.**

17 **Q. From your perspective, your understanding,**  
 18 **is that the total compensation that you are seeking**  
 19 **for the WBI pipeline easement in this case?**

20 **A. I don't know.**

21 **Q. Well, if the case goes in front of a jury**  
 22 **and the jury is asked to award you some amount of**  
 23 **compensation for the pipeline easement, how much**  
 24 **compensation do you think the jury should award**  
 25 **you?**

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1 MR. BRAATEN: Object to foundation and  
 2 form. For the pipeline?

3 MR. FORSTER: What's the objection?

4 MR. BRAATEN: I was just asking you, are  
 5 you talking about specifically the pipeline?

6 Q. (MR. FORSTER CONTINUING) Yes. So I'm  
 7 asking, if the jury is asked to award you  
 8 compensation for the pipeline easement that's shown  
 9 on Exhibit 1 for this deposition, is the total  
 10 compensation shown here at number 1 in the  
 11 appraisal, the \$117,665, is that the amount that  
 12 you think the jury should award you?

13 **A. I don't understand what the 1.67 acres**  
 14 **times 2,500 per acre is for. We were asking 600 a**  
 15 **rod as damages.**

16 Q. And maybe we can help with that. If you  
 17 look above the list, it says, "We also estimate the  
 18 value of land used for workspace areas at a rate of  
 19 \$2,500 per acre." Do you see that?

20 **A. I do.**

21 Q. Does that help you understand what the --

22 **A. I don't know how to put workspace acres**  
 23 **into easement feet allowances.**

24 Q. Okay. If you look back at Exhibit 1 where  
 25 it says extra workspace, 1.67 acres. Do you see

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1 everybody, I need to know if the amount you're  
 2 going to be claiming at trial is different from the  
 3 amount that's been disclosed, and this is the value  
 4 that's been disclosed to us for your pipeline  
 5 easement. You know, if you're going to say  
 6 something different from that at trial, I need to  
 7 know that and that's why I'm asking the question.

8 So maybe I can ask it this way. If this  
 9 case goes to trial, do you intend to ask for some  
 10 different amount for the pipeline easement  
 11 compensation aside from what's shown as the total  
 12 compensation concluded by your appraisal here on  
 13 No. 1?

14 **A. I need -- I would need to speak with my**  
 15 **attorney and the other people involved in the**  
 16 **lawsuit.**

17 MR. BRAATEN: To the extent it's helpful,  
 18 I'll stipulate that she's not going to testify to a  
 19 different amount for the pipeline easement as  
 20 damages.

21 MR. FORSTER: That's what I was going to  
 22 suggest. We can stipulate?

23 MR. BRAATEN: Yeah, I will stipulate to  
 24 that.

25 **THE WITNESS:** Thank you.

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1 that?

2 **A. Yes.**

3 Q. Does that appear to line up with the  
 4 calculation shown on the appraisal of 1.67 acres  
 5 times \$2,500 per acre?

6 **A. Yes.**

7 Q. Okay. And I'm not trying to trick you.  
 8 This is my chance to ask you. You know, if you get  
 9 up on the stand at trial, I'm trying to confirm  
 10 that what you're going to be asking the jury to  
 11 award you for the pipeline easement is the same  
 12 thing that your appraiser is saying you should be  
 13 awarded. So the question is simply, do you think  
 14 you should be awarded for the pipeline easement the  
 15 \$117,665 concluded by the appraiser, or is there  
 16 something else that you think you should be awarded  
 17 that's different from that?

18 **A. I don't know.**

19 Q. Okay. So is it fair to say you would  
 20 defer to your appraiser in terms of the total  
 21 compensation that should be awarded at trial?

22 **A. I don't know.**

23 Q. All right. And I'm really not trying to  
 24 ask a trick question. This is our only chance to  
 25 talk with you before trial, and so in fairness to

1 MR. FORSTER: Sorry. I didn't mean to  
 2 drag you over the coals there. I just want to have  
 3 the record clear.

4 Q. (MR. FORSTER CONTINUING) Aside from that  
 5 compensation for the pipeline easement, do you have  
 6 an understanding as to any other compensation that  
 7 you would be seeking in this action?

8 **A. Use of my road.**

9 Q. And what amount would you intend to seek  
 10 for the use of your road?

11 MR. BRAATEN: Object to foundation.

12 **A. I would assume the same amount per rod,**  
 13 **what the appraisal states.**

14 Q. (MR. FORSTER CONTINUING) The 227.8 rods  
 15 times 550 per rod for a total of \$125,290?

16 **A. Yes.**

17 Q. And, Ms. Hoffmann, are you aware that that  
 18 -- that the claim for compensation for that access  
 19 road has been dismissed from the case previously?

20 MR. BRAATEN: Object to form.

21 **A. I don't know.**

22 MR. BRAATEN: I just want to clarify on  
 23 the record, and I'm not trying to argue with you,  
 24 but you said the claim to compensation was  
 25 dismissed, and I disagree with that as a legal

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1 matter. There was a stipulation by which WBI  
2 dismissed its condemnation claim.

3 MR. FORSTER: Probably it would be helpful  
4 for the record if we just put the stipulation in as  
5 an exhibit.

6 (Deposition Exhibit No. 15 was marked for  
7 identification.)

8 Q. (MR. FORSTER CONTINUING) Ms. Hoffmann,  
9 I've placed in front of you what's been marked as  
10 Exhibit 15. Let me know once you've had a chance  
11 to look through that. And I can represent to you  
12 that this is a document that's been filed with the  
13 Court in this case. Have you seen this document  
14 before today?

15 A. It might have been emailed to me.

16 Q. And if we look at the last page of the  
17 document, the signature blocks, there's a signature  
18 for the 3rd day of May and it's signed Matt Kelly.  
19 Do you see that?

20 A. Yes.

21 Q. And it says, attorneys for defendants  
22 David L. Hoffmann, Denae M. Hoffmann, and the other  
23 landowners in the case. Do you see that?

24 A. Yes.

25 Q. Was Matt Kelly your attorney at the time

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1 that this stipulation was signed in May of 2018?

2 A. He was our attorney. I can't tell you the  
3 date.

4 Q. Fair enough. He was your counsel at the  
5 beginning of this case, though; right?

6 A. Yes. Yes.

7 Q. And if we look at paragraph 1 of the  
8 stipulation, it says, "Plaintiff, WBI Energy  
9 Transmission, agrees not to condemn the temporary  
10 access road easement crossing the lands of  
11 defendants David L. Hoffmann and Denae M. Hoffmann  
12 depicted in Exhibit 2 to the condemnation complaint  
13 and identified in the caption," and then it  
14 provides a legal description. If you look back to  
15 Exhibit 6, it's the plat of the access road that we  
16 were talking about.

17 A. Okay.

18 Q. Does that appear to be the same access  
19 road that's described in paragraph 1 here?

20 MR. BRAATEN: Paragraph 1 of Exhibit 15?

21 MR. FORSTER: Yes.

22 A. Yes.

23 Q. (MR. FORSTER CONTINUING) And the  
24 stipulation goes on to state that, "Accordingly,  
25 WBI's claim to condemn the access road easement for

1 construction access is dismissed as moot pursuant  
2 to Federal Rule of Civil Procedure 41(a)(1) without  
3 compensation and without costs or fees to any  
4 party." Did I read that correctly?

5 A. Which means?

6 MR. BRAATEN: Just answer the question.  
7 THE WITNESS: What's the question?

8 Q. (MR. FORSTER CONTINUING) Is that what the  
9 stipulation says?

10 A. That's what it says.

11 Q. And you were going to say that this means  
12 what?

13 MR. BRAATEN: I'm not sure if that's a  
14 question, but if it is, object to foundation.

15 A. I'm not sure what that means.

16 Q. (MR. FORSTER CONTINUING) Fair enough.  
17 Okay. So we've talked about total compensation for  
18 the pipeline easement. We've talked about  
19 compensation for this claimed use of the access  
20 road. Aside from those items that we've discussed,  
21 is there any other compensation that you believe  
22 should be awarded to you in this action?

23 A. Legal fees.

24 Q. And do you know how much in legal fees you  
25 and Mr. Hoffmann have paid out of pocket to date in

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1 this action?

2 A. Approximately 28,000.

3 Q. And is that just to Mr. Braaten or to  
4 spread across both Mr. Braaten and Mr. Kelly?

5 A. That's just to Mr. Braaten.

6 Q. And is that 28,000 at least -- and I  
7 realize that these will continue, but at least as  
8 we sit here today, is that the total amount of fees  
9 that you would be looking to be compensated for to  
10 date?

11 A. No. We haven't -- I think there's still a  
12 month or so outstanding plus appraisal fee.

13 Q. Okay. And what's the month or so  
14 outstanding?

15 A. I don't know.

16 Q. Do you know what the appraisal fee is?

17 A. I don't know.

18 Q. Are you looking to be compensated for any  
19 legal fees that were paid to Mr. Kelly in this  
20 action?

21 A. No.

22 Q. Okay. So we've talked about the total  
23 compensation for the pipeline easement. We've  
24 talked about compensation for the claimed use by  
25 WBI Energy of the access road. We've talked about

1 legal fees. Aside from those items, is there  
 2 anything else that you believe you should be  
 3 compensated for in this action?

4 A. No.

5 MR. FORSTER: No further questions.

6 MR. BRAATEN: I don't have any questions  
 7 and we will read and sign.

8 (Concluded at 11:54 a.m., the same day.)

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1 CERTIFICATE OF COURT REPORTER AND NOTARY PUBLIC

2 STATE OF NORTH DAKOTA )  
 ) ss.  
 3 COUNTY OF BURLEIGH )

4

5 I, Denise M. Andahl, a Registered  
 Professional Reporter and a Notary Public duly  
 commissioned and qualified in and for the County of  
 6 Burleigh, State of North Dakota,

7 DO HEREBY CERTIFY that, pursuant to notice  
 8 or agreement, there came before me at the time and  
 place hereinbefore indicated the named witness, who  
 was by me duly sworn to testify to the truth and  
 9 nothing but the truth touching and concerning the  
 matter in controversy in this cause; that said  
 10 witness was thereupon examined under oath and said  
 examination reduced to writing by me; that the said  
 11 deposition, having been transcribed, was  
 subsequently submitted by me to the said witness,  
 12 who thereupon read the said deposition and made  
 changes or corrections, if any, as appear noted  
 13 therein, along with the reason for each thereof,  
 and that the said deposition was thereupon  
 14 subscribed to by the said witness; that the  
 foregoing and attached typewritten pages contain a  
 15 full, true, accurate and correct transcript of my  
 shorthand notes, as they purport to contain, then  
 16 and there taken.

17 I DO HEREBY FURTHER CERTIFY that I am  
 neither attorney or counsel for, nor related to or  
 employed by, any of the parties to the action in  
 which this deposition is taken; and, further, that  
 I am not a relative or employee of any attorney or  
 counsel by the parties hereto or financially  
 interested in the action.

21 IN WITNESS WHEREOF I have hereunto set  
 hand and affixed my notarial seal this \_\_\_\_ day of  
 22 \_\_\_\_\_, 2021.

23 -----  
 24 Denise M. Andahl  
 Court Reporter and Notary Public  
 My Commission expires: 12-26-22

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1 CERTIFICATE OF DEPONENT

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4 I, DENAE HOFFMANN, the deponent in the  
 5 foregoing deposition,  
 6 DO HEREBY CERTIFY that I have read the  
 7 foregoing and attached 78 typewritten pages, and  
 8 that the same are, with changes or corrections, if  
 9 any, set forth on the following correction sheets  
 10 (setting forth the reason assigned for each change  
 11 or correction, and duly signed by me), a full,  
 12 true, accurate and correct transcript of my  
 13 deposition on oral examination given at the time  
 14 and place therein indicated.

15 Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
 16 202\_.

17

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19

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21 -----  
 22 DENAE HOFFMANN

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